

**State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of May 13, 2014**

**Board Members Present**

David D. Jones, M.D., Board Secretary  
David R. Andrews, M.D.  
Cheryl Clukey  
David H. Dumont, M.D.  
Dana D. Dyer  
David Nyberg, Ph.D.  
Christopher Ross, P.A.-C

**Board Staff Present**

Randal C. Manning, Executive Director  
Mark Cooper, M.D., Medical Director  
Maureen S. Lathrop, Administrative Assistant  
Kathryn Levesque, Investigator  
Tim Terranova, Assistant Executive Director

**Attorney General's Office Staff**

Dennis Smith, Assistant Attorney General  
Detective James Gioia, Attorney General's Office

---

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public sessions of the meeting, actions are taken on all matters discussed during executive session.

**EXECUTIVE SESSIONS**

9:10 a.m. – 10:20 a.m.	Complaints
10:30 a.m. – 11:05 a.m.	Complaints
11:15a.m. – 11:46 a.m.	Informal Conference
1:05 p.m. – 1:57 p.m.	Informal Conference

**I. Call to Order**

Dr. Jones called the meeting to order at 9:10 a.m.

**A. Amendments to Agenda**

1. Oscar E. Fischer, M.D – Application for Individual Consideration

**B. Scheduled Agenda Items**

11:00 a.m. CR13-118 Informal Conference

1:00 p.m. CR12-233 Informal Conference

3:00 p.m. Medical Professionals Health Program Annual Report

## II. Complaints

### 1. Letters of Guidance

#### a. CR13-215 Ellen Bentley, M.D.

Dr. Jones moved to approve the letter of guidance to Dr. Bentley. Dr. Andrews seconded the motion, which passed unanimously.

### 2. CR12-51

Ms. Clukey moved to investigate further. Dr. Andrews seconded the motion, which passed unanimously.

### 3. CR13-86

Mr. Dyer moved to table the matter and offer the licensee a Consent Agreement. Ms. Clukey seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

### 4. CR14-3

Mr. Dyer moved to dismiss the complaint. Dr. Andrews seconded the motion, which passed unanimously.

MOTION: This is a complex elderly patient with a long standing medical problem under treatment by the physician. The complainant feels the physician did not detect an infection at onset. Unrelated to the infection but compounding treatment of this patient, while the physician was absent on vacation, the medical assistant employed by this physician made an unauthorized medical determination, falsely entered it into the patient's EMR and personally participated in a medical procedure with the patient. Upon discovery of this action the medical assistant was terminated from employment.

Notwithstanding the fraudulent action of the medical assistant, this patient received an appropriate standard of care from the attending physician. An independent expert review conducted at the request of the complainant concurred in this assessment.

### 5. CR14-10

Dr. Andrews moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains the physician failed to provide full and accurate information concerning her health while testifying as an expert witness. She alleges the physician withheld parts of her medical history from the court which prevented a full understanding of her condition and caused her harm. The physician responded that she was asked to testify as the patient's current treating physician, not as an expert. This is

corroborated by the patient's attorney. She denied withholding information and stated additional records would not have been helpful to her testimony regarding the patient's current condition and treatment.

6. CR14-8

Dr. Dumont moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Andrews recused.

MOTION: The patient complains that the physician made errors and misdiagnoses which have had a devastating effect on her health. She complains the physician kept her condition from her, failed to share her medical history with other providers and has done nothing to help her. The physician responded by explaining his care of the patient over approximately 27 years. He denied not sharing the patient's records and referred the patient to Massachusetts General Hospital for a second opinion. Additionally, she has sought opinions from Tufts Medical Center, Johns Hopkins and the Lahey Clinic. No other institution or provider has criticized the physician's care or been able to satisfactorily explain the patient's symptoms.

7. CR14-9

Dr. Andrews moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient complains the physician failed to provide accurate information while testifying as an expert witness. She alleges he withheld information from the court which prevented a full understanding of her condition and caused her harm. The physician responded by explaining that he evaluated the patient twice. As part of those evaluations he reviewed the records which were provided and examined her. A copy of his report was provided. He strongly denied giving untruthful testimony or withholding information.

8. CR13-131

Dr. Dumont moved to investigate further. Mr. Dyer seconded the motion, which passed unanimously.

9. CR13-169

Mr. Dyer moved to investigate further. Ms. Clukey seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

10. CR13-182 Benjamin G. Newman, M.D.

Dr. Nyberg moved to combine this complaint with CR 14-18 and CR 14-19 and order an Adjudicatory Hearing. Dr. Dumont seconded the motion, which passed unanimously.

11. CR13-201

Dr. Nyberg moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: This is a Board complaint brought against a physician who left a loaded firearm in a public place. While the Board is concerned about this event, it finds no grounds for further action.

12. CR14-18 Benjamin G. Newman, M.D.

See CR 13-182

13. CR14-19 Benjamin G. Newman, M.D.

See CR 13-182

14. CR13-199

Mr. Ross moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

15. CR13-217

Mr. Ross moved to investigate further. Dr. Andrews seconded the motion, which passed unanimously.

16. CR14-14

Dr. Andrews moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

17. CR14-23 Kristin N. Colley, P.A.-C

Mr. Ross moved to order an Adjudicatory Hearing. Ms. Clukey seconded the motion, which passed unanimously.

18. CR14-24

Dr. Dumont moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

MOTION: The patient, an 82 year old male with complaints of unrelenting knee and ankle pain, asserts the physician refused to treat him and made a false diagnosis. The patient believes he has an injury from a fall and that a sports medicine physician could fix the problem without surgery. (Arthroscopy performed by a previous physician had failed

to help.) After aspiration and injection also failed to alleviate the problem, the physician, an orthopedist, diagnosed advanced degenerative arthritis and counseled the patient that a knee replacement was his only realistic option. The patient did not want to hear this and disagreed. The physician suggested the patient seek another specialist's opinion, after a futile attempt to help the patient overcome a persistent misunderstanding of his medical condition.

19. CR14-25

Dr. Dumont moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

MOTION: A patient complains about the pain management care that he received from his primary care physician. The patient has long standing neurological and musculoskeletal issues. The primary care physician tried to help him with multiple medical modalities and the consultation and collaboration of specialists: neurology, neurosurgical, and pain management. The care seems reasonable and appropriate after reviewing the records. All the providers involved agreed that opiate therapy for the patient's chronic pain was not warranted.

20. CR14-26

Dr. Jones moved to order an Informal Conference. Dr. Dumont seconded the motion, which passed unanimously.

21. CR14-48

Dr. Jones moved to order an Informal Conference. Dr. Dumont seconded the motion, which passed unanimously.

22. CR14-28

Ms. Clukey moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

MOTION: The patient complains that the physician, a specialist to whom she was referred by her primary care physician, included incorrect information regarding her past medical conditions in his medical record, and that when she alerted him to the errors, he failed to correct them. The physician explained that the information the patient referred to came from her referring physician, and that he corrected the one mistake he made in the record. The patient acknowledges the physician's response, and wishes to withdraw her complaint.

23. CR14-40

Ms. Clukey moved to investigate further. Dr. Andrews seconded the motion, which passed unanimously.

24. CR14-41 Roger I. Hardy, M.D.

Dr. Nyberg moved to accept the surrender of Roger I. Hardy's Maine medical license while under investigation. Mr. Dyer seconded the motion, which passed unanimously.

25. Intentionally Left Blank

26. Intentionally Left Blank

III. Assessment & Direction

27. AD14-43

Dr. Andrews moved to file the issue. Mr. Dyer seconded the motion, which passed unanimously.

28. AD14-52

Dr. Jones moved to issue complaint CR14-83. Dr. Dumont seconded the motion, which passed unanimously.

29. AD14-57

Dr. Dumont moved to issue complaint CR14-89 and combine it with CR 14-74. Mr. Dyer seconded the motion, which passed unanimously.

30. AD14-61

Dr. Andrews moved to issue complaint CR14-84. Dr. Dumont seconded the motion, which passed unanimously.

31. AD14-64

Dr. Dumont moved to issue complaint CR14-85 and offer the licensee a Consent Agreement. Mr. Dyer seconded the motion, which passed unanimously.

32. AD14-65

Dr. Dumont moved to issue complaint CR14-86 and offer the licensee a Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

33. AD14-75

Mr. Dyer moved to issue complaint CR14-87. Ms. Clukey seconded the motion, which passed unanimously.

34. Pending Adjudicatory Hearing and Informal Conference Report

The Board reviewed the report.

35. Consumer Assistant Feedback

The Board reviewed the consumer feedback.

36. Physician Feedback (None)

IV. Informal Conference

A. CR13-118

Following the Informal Conference, Dr. Jones moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 5-1-0-1 with Dr. Andrews recused.

MOTION: The complainant states that his diagnosis was missed in the emergency room by a physician assistant. He notes that his subsequent complaint was minimized by the physician assistant and his supervisors. He feels they did not accept any responsibility for the quality of his care and his outcome, and in fact, appeared to blame him for his disease and outcome. The Board investigated further and then held an Informal Conference with the physician assistant and his primary supervisor. Both clearly demonstrated understanding of the need for system improvements in the emergency room. The physician assistant demonstrated understanding of the need for better documentation and accepted responsibility for his decisions. The physician assistant and supervisor understood the need to improve discharge planning from the emergency room and to improve follow up and communication of abnormal tests with the patient and PCP. The physician assistant apologized to the complainant who was present at the Informal Conference.

B. CR12-233

Following the Informal Conference, Dr. Dumont moved to investigate further. Dr. Andrews seconded the motion, which passed unanimously.

Public Session

V. Minutes of April 8, 2014

Ms. Clukey moved to approve the minutes of the April 2014 meeting. Dr. Dumont seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders

1. Decision on Motion to Vacate Subpoena

Dr. Andrews moved to accept the Decision as written. Mr. Dyer seconded the motion, which passed unanimously.

B. Consent Agreement Monitoring and Approval

1. Andrew Nicholson, M.D.

Mr. Dyer moved to deny Dr. Nicholson's request to meet with the Board. Dr. Andrews seconded the motion, which passed unanimously.

2. Alexandria Nesbit, P.A.-C.

Informational Update

3. Cameron Bonney, M.D.

Dr. Dumont moved to approve the proposed physician monitor and substance misuse health care provider. Mr. Dyer seconded the motion, which passed 6-0-0-1 with Dr. Nyberg recused.

VII. Adjudicatory Hearing (none)

VIII. Remarks of Chairman

A. FSMB Annual Meeting Attendees' Report

Dr. Nyberg and Mr. Manning provided the Board with their observations from the annual meeting.

IX. Executive Director's Monthly Report

The Board accepted the report of the Executive Director.

A. Complaint Status Report

As of May 1, 2014 there are seventy-two (72) complaints outstanding. Fifty-five (55) have been received year-to-date and fifty-nine (59) have been closed so far this year.

B. Discussion regarding Investigative Costs

Mr. Dyer moved to include assessment of investigative costs in all future Consent Agreements. Dr. Nyberg seconded the motion, which passed unanimously.



## X. Medical Director's Report (none)

## XI. Remarks of Assistant Attorney General

## A. Law Court Decision

Dennis Smith, AAG, reported on the Law Court's decision in a recent case regarding the Board of Nursing.

## XII. Secretary's Report

## A. List A

## 1. M.D. List A. Licenses for Ratification

Mr. Ross moved to ratify the Board Secretary's approval of the physician license applications on List A. Mr. Dyer seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

NAME	SPECIALTY	LOCATION
Abdalla, Izzeldin K.	Internal Medicine	Bangor
Ballin, Mitchell I.	Internal Medicine	Waterville
Blazick, Elizabeth A.	Surgery	Portland
Brar, Baljinder K.	Physical Medicine& Rehabilitation	Brunswick
Crosslin III, Thomas E.	Surgery	Rockport
Dalmasy-Frouin, Johannes G.	Psychiatry	Windham
Deroos, Francis J.	Emergency Medicine	Bar Harbor
Dhas, Vijiladevi P.	Emergency Medicine	Lewiston
Finkelston, Mia B.	Family Medicine	Not Listed
Flanagan, Noreen M.	Psychiatry	Lewiston
Grinage, Egbert F.	Pediatrics	Calais
Gross, Abby A.	Pediatrics	Portland
Healy, Kevin J.	Anesthesiology	Not Listed
Hruschka, James A.	Anesthesiology	Lewiston
Iacobovici, Sarah I.	Forensic Psychiatry	Windham
Jones, Mark C.	Neurology	Not Listed
Karki, Niraj	Internal Medicine	Presque Isle
Kasper, Jared M.	Diagnostic Radiology	Bangor
Lorber, Gideon M.	Urology	Bangor
Montemarano, Vincent A.	Surgery	Calais
Morgan, Kelly A.	Anesthesiology	Bangor
Mukhtar, Jalal	Internal Medicine	Bangor
Oduola, Ayodeji A.	Internal Medicine	Not Listed
Okpalike, Martin N.	Pediatrics	Calais
Saelinger, Donald A.	Internal Medicine	Bangor
Schwartz, Daniel P.	Psychiatry & Neurology	Portland

Toth, Michele	Psychiatry	Augusta
Touloukian, Robert J.	Surgery	Bangor
Van Wagenen, Erin R.	Pediatrics	Yarmouth
Wolf, Bryce T.	Orthopedic Surgery	Portland

2. P.A. List A. Licenses for Ratification

Mr. Ross moved to ratify the Board Secretary's approval of the physician assistant license applications on P.A. List A. Dr. Dumont seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation:

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Samuel Gagnon, P.A.-C	Inactive	None	None
Courtney Minzy, P.A.-C	Active	Brad Cushing, M.D.	Portland

B. List B. Applications for Individual Consideration

1. Paul J. Davis, M.D.

The Licensure Committee moved to investigate further. The motion passed unanimously.

2. Floyd D. Hockersmith, M.D.

No action taken.

3. Robert J. Manning, M.D.

The Licensure Committee moved to preliminarily deny the application and grant leave to withdraw. The motion passed unanimously.

4. Oscar E. Fischer, M.D.

The Licensure Committee moved to grant the waiver request for more than three attempts at the USMLE Step 3 examination, and approve the license application. The motion passed unanimously.

C. List C. Applications for Reinstatement

1. List C Applications for Reinstatement

Dr. Dumont moved to ratify the Board Secretary's approval of the reinstatement applications on List C. Mr. Dyer seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Johnson, Charles L.	Psychiatry	Not Listed
Whu, Maybelle S.	Family Medicine	Presque Isle

2. List C. Applications for Reinstatement for Individual Consideration (none)

D. List D. Withdrawals

1. List D (1) Withdraw License Application (none)
2. List D (2) Withdraw License from Registration

Ms. Clukey moved to approve the licensees' requests on List D (2) to withdraw from registration. Mr. Ross seconded the motion, which passed unanimously.

The following licensees have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Bub, Lawrence	MD17707
DeShaney, Katrina	PA1146
Henderson, Bradley	MD19028
Ouellette, Elaine	PA134
Rouillard, Renald	PA332
Zaharia, Antoanela	MD17224

3. List D (3) Withdraw License from Registration - Individual Consideration (none)

E. List E Licenses to lapse by operation of law

The following licenses lapsed by operation of law effective April 14, 2014.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Banerjee, Sirshendu	MD19157
Bobzien III, William	MD15234
Chapin, Travis R.	PA1333
Elliott-DeMars, Joy	PA1209
Kemmerer, Scott	MD16148
Kuo, Yen-Zen	MD6854
Pendarvis, Ranie	MD16611
Russell, Melissa	MD18871
Sacks, Julian	MD7710
Szenk, Monika	PA1388

Tarar, Riaz Ahmed  
 Williams, Berkeley  
 Woolard, Douglas

MD7065  
 PA853  
 MD17134

- F. List F Licensees requesting to convert to active status (none)
- G. List G Renewal applications for review (none)
- H. List H Physician Assistant Schedule II Authority Requests for Ratification
  - 1. Dr. Andrews moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Dr. Dumont seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Essie McKinnon-Leach, P.A.-C	Patrick Maidman, M.D.	Norway
Charity Maniates, P.A.-C	Richard Marion, M.D.	Portland
Danielle St. Onge, P.A.-C	D.Thompson McGuire, M.D.	Bangor
Christine Thomas, P.A.-C	Krista Burchill, M.D.	Presque Isle
Christopher Williamson, P.A.-C	Lindsay Kerr, M.D.	Bangor

2. Applications for New Schedule II Authority

Mr. Dyer moved to ratify the Board Secretary's approval of the following requests for Schedule II Authority. Dr. Andrews seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Erin Bateman, P.A.-C	John C. Baker, M.D.	Newport
Anne Bourgoin, P.A.-C	Anand Rughani, M.D.	Scarborough
Ryan Card, P.A.-C	Rajiv Desai, M.D.	Scarborough
Jane Folgert, P.A.-C	Joseph Alexander, M.D.	Scarborough
James Gillen Jr., P.A.-C	Paul Weldner, M.D.	Lewiston
Jeff Hamm, P.A.-C	Jeffrey Florman, M.D.	Scarborough
Jed Jankowski, P.A.-C	Jeffrey Florman, M.D.	Scarborough
Kristin O'Hara, P.A.-C	Mark Overton, M.D.	Fort Kent
Kevin Quigley, P.A.-C	Carmine Frumiento, M.D.	Lewiston
Anne Richardson, P.A.-C	Anand Rughani, M.D.	Scarborough

Debra Ryan, P.A.-C  
Peter Volk, P.A.-C

Andrew Dionne, M.D. Augusta  
Laura Pogemiller Caron, M.D. Manchester

XIII. Standing Committee Reports

A. Administration, Policy and Rules Committee

Mr. Dyer moved to accept changes recommended to the current draft of the joint Chapter 2 Rules. Dr. Andrews seconded the motion which passed unanimously.

XIV. Board Correspondence

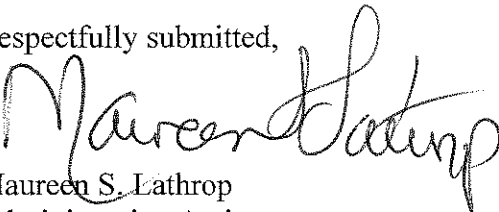
XV. Other Business

A. Medical Professionals Health Program (MPHP) Annual Report.

The Board accepted the annual report of the MPHP.

XVI. Adjournment 4:10 p.m.

Respectfully submitted,

  
Maureen S. Lathrop  
Administrative Assistant